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| EXAMINER |
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PRONE, JASON D

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3724

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05/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/761,031 | Applicant(s) WHEELER ET AL. | |
| | Examiner Jason Prone | Art Unit 3724 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,9-11 and 16-23 is/are rejected.
- 7) ☒ Claim(s) 3-8 and 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Appendix A and B</u> . |

DETAILED ACTION

Claim Objections

1. Claim 20 is objected to because of the following informalities: on the 3rd to last line, the phrase “said interface edge” should be replaced with “said interface”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms “a clamp” and “a cam” along with the limitation “said cam member spaced from said clamp such that said cam member functions independently of said clamp” is unclear. Using Figure 3, it appears that cam system 28 incorporates the clamp 38. Figure 3 clearly shows that the cam and clamp are part of the same structure. A linking phrase should be included that links these two structures together (i.e. the clamp is part of the cam member). Figure 3 clearly shows that the clamp is part of the cam, therefore, how can the cam be spaced from the clamp and how can the two structures function separately and independently when they are one in the same? When the cam member 28 is operated, the clamp 38 moves.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 20 is rejected, as best understood, under 35 U.S.C. 102(b) as being anticipated by Schickerling (6,112,420).

Schickerling discloses the same invention including a housing containing a motor (Field of the Invention), a saw blade having a shank portion (24) and a cutting portion (20), a carrier having a first portion adapted to receive the blade (60) and a second portion coupling the carrier with a drive from the motor (32), the first portion including a pair of side walls (40, 42) and a base portion extending in-between (44), a clamp extending from the side walls and operable to engage the blade at an interface (26, 60) to retain the shank portion of the blade within the first portion (58), a cam member fixed between the side walls (102), the cam member positioned from said base portion forming a channel to receive the blade (Fig. 5), the cam member being juxtaposed to a portion of the blade the interface and the cutting portion (Fig. 7), and the cam member is spaced from the clamp such that the cam member is capable of functioning separately and independently of the clamp (Fig. 6).

6. Claims 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated Young (2002/0112582). Young discloses the invention including a housing (20) containing a motor (106), a first pair of lateral rails integrally formed on and extending from opposite sides of the housing and being spaced from one another (114), a drive mechanism coupled to the motor and a carrier disposed within the housing and operable to interconnect a blade to the drive mechanism for translating rotational movement of the

motor into linear actuation of the blade (Fig. 1), a releasably attached base portion (30), the base portion having a second pair of lateral rails extending from the base portion (Fig. 5, vertical side walls that interact with 114), the second pair of rails spaced from one another forming a gap between them (78), the second pair of rails slidably engaging the first pair of rails (Fig. 5, vertical side walls that interact with 114), the base having a latch for selectively releasably coupling the base to the housing in a locked position (50), the latch for providing a quick release of the base from the housing (50), the latch is biased into an engaged position against a stop extending from the base (70), and the latch is movable between the engaged and disengaged position (50).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (6,694,625). Please see Appendix A for examiner added reference numerals.

Wright discloses the invention including a housing (36) containing a motor (24), a substantially flat planar monolithic one piece carrier slidably disposed within the housing (2), the carrier including a first portion (800) with a planar base (801) and side walls extending from and continuous with the planar base defining a channel adapted to receive a blade (802, Fig. 5), a second portion continuous with the first portion forming a one piece carrier (803), the second portion having a slot (804) with lateral side walls

extending from opposing edges of the slot forming an opening through the carrier (805, 806), the carrier positioned in the housing such that a plane of the base is in a line of cutting with the saw blade so that the plane of the line of cutting is substantially parallel to the plane of the planar base (Fig. 5), a rotatable element fixed for rotation about a support and rotated by the motor (30), a follower for interconnecting the carrier and the rotatable element (32), and wherein rotation of the rotatable element provides reciprocal linear motion of the carrier whereby the follower follows a reciprocal linear path within the lateral walls (Fig. 11).

However, Wright fails to disclose the follower rolls on the lateral walls.

It would have been obvious to one of ordinary skill in the art to have tried/experimented with a follower that rolls instead of slides along the walls of the slot. By using a follower that will roll rather than slide would allow for all sides of the follower to wear equally instead of just allowing the two sliding points to wear by themselves. Therefore, it would have been an obvious to one skilled in the art at the time of the invention to have modified the follower of Wright to obtain the invention as specified in claim 1. The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense.

9. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright in view of Neubert et al. (5,398,414). Please see Appendix B for examiner added reference numerals to Neubert et al. Wright discloses the invention but fails to

disclose a releasably attached base portion, the base portion including a first pair of lateral rails for slidably engaging a second pair of lateral walls incorporated on the housing, and the base includes a latch for selectively coupling the base to the housing.

Neubert et al. teach it is old and well known in the art of saws to incorporate a releasably attached base portion (17), the base portion including a first pair of lateral rails (23a, 23b) for slidably engaging a second pair of lateral walls incorporated on the housing (13a and it is clear from the Figure 1 that the housing is split into two halves and the second of the pair of lateral walls would be the portion opposite 13a), and the base includes a latch for selectively coupling the base to the housing (24). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wright with a releasable base, as taught by Neubert et al., because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wright. Please see Appendix A for examiner added reference numerals.

Wright discloses the invention including a housing (36) containing a motor (24), a saw blade having a cutting edge, a mounting edge, and a side surface (12), the side surface defining a first plane in a line of cut with the cutting edge (Fig. 5), a monolithic one piece carrier (2) including a first portion (800) defining a channel adapted to receive a blade (802, Fig. 5), the channel including a base defining a second plane (801) and walls extending from and continuous with the base and substantially perpendicular to

the second plane (8), the first plane is parallel to the second plane and the first plane is resting on the second plane (Fig. 5), a second portion continuous with the first portion forming a one piece carrier (803), the second portion having a slot (804) with lateral side walls extending from opposing edges of the slot forming an opening through the carrier defining a path (805, 806), a rotatable element rotated by an output shaft extending from the motor (30), a follower for interconnecting the second portion and the rotatable element (32), and wherein rotation of the rotatable element provides reciprocal linear motion of the carrier whereby the follower follows a reciprocal linear path within the guide path (Fig. 11).

However, Wright fails to disclose the follower rolls on the lateral walls.

It would have been obvious to one of ordinary skill in the art to have tried/experimented with a follower that rolls instead of slides along the walls of the slot. By using a follower that will roll rather than slide would allow for all sides of the follower to wear equally instead of just allowing the two sliding points to wear by themselves. Therefore, it would have been an obvious to one skilled in the art at the time of the invention to have modified the follower of Wright to obtain the invention as specified in claim 11. The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense.

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wright in view of Zeiter et al. (6,920,695) Wright discloses the invention but fails to disclose a fan.

Zeiter et al. teach it is old and well known in the art of saws to incorporate a fan (30). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wright with a fan, as taught by Zeiter et al., because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wright in view of Zeiter et al. as applied to claims 11 and 16 above, and further in view of Wild (5,199,174). Wright in view of Zeiter et al. disclose the invention but fail to disclose vents associated with the fan.

Wild teaches it is old and well known in the art of saws to incorporate vents associated with the fan (15). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wright in view of Zeiter et al. with vents, as taught by Wild, because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

13. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright in view of Neubert et al. Please see Appendix B for examiner added

reference numerals to Neubert et al. Wright discloses the invention but fails to disclose a releasably attached base portion, the base portion including a first pair of lateral rails for slidably engaging a second pair of lateral walls incorporated on the housing, and the base includes a latch for selectively coupling the base to the housing.

Neubert et al. teach it is old and well known in the art of saws to incorporate a releasably attached base portion (17), the base portion including a first pair of lateral rails (23a, 23b) for slidably engaging a second pair of lateral walls incorporated on the housing (13a and it is clear from the Figure 1 that the housing is split into two halves and the second of the pair of lateral walls would be the portion opposite 13a on the other half of the housing), and the base includes a latch for selectively coupling the base to the housing (24). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wright with a releasable base, as taught by Neubert et al., because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

Response to Arguments

14. Applicant's arguments, with regards to claims 1, 9-11, and 16-20, filed 06 March 2008 have been fully considered but they are not persuasive. With regards to the rejection of claim 20, item 102 of Schickerling is perfectly capable of functioning in some manner independently of 58. The claim does not disclose what function the cam does independently of the clamp. Figure 6 clearly shows a function being performed by item

102 independently from the clamp 58. Also, the apparatus of Schickerling is to be used with a power tool. The drive portion of motor would be in physical communication with the second portion 32 or the blade could not move. Using Appendix A, Wright clearly discloses lateral walls (805 and 806).

15. Applicant's arguments with respect to claims 21-23 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

16. Claims 3-8 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571)272-4513. The examiner can normally be reached on 7:30-5:00 (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

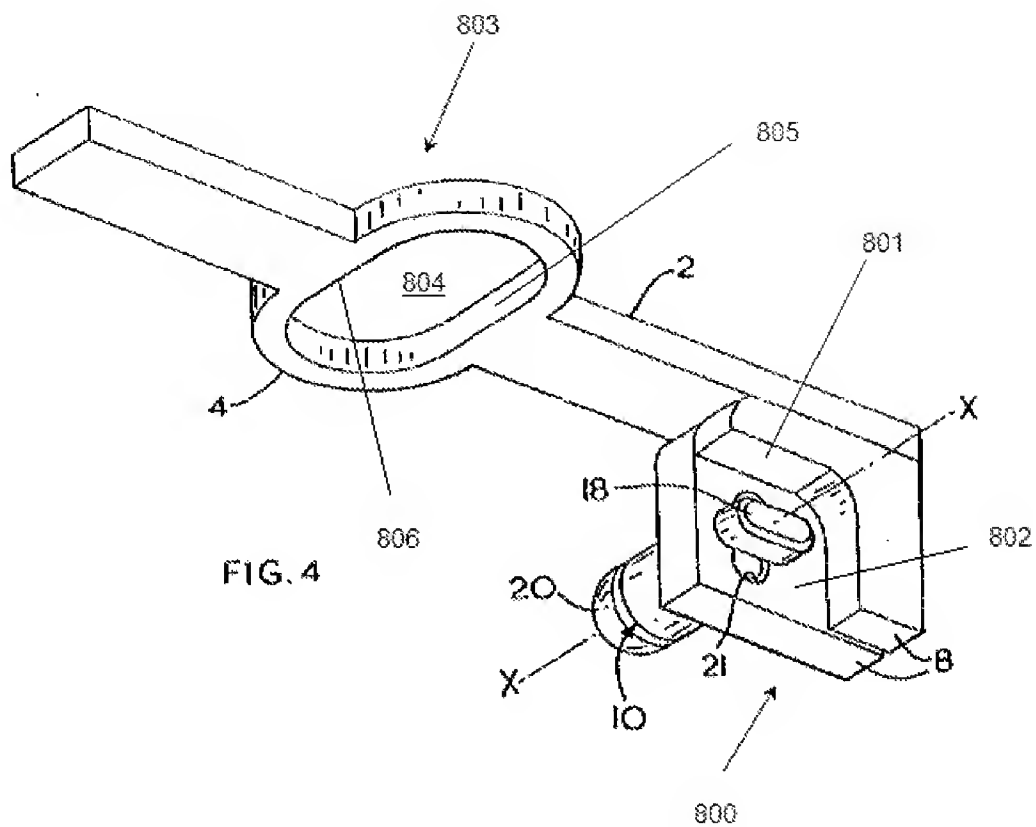
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20 May 2008

/Jason Prone/

Primary Examiner, Art Unit 3724

Appendix A



Appendix B

